

CLARKE COUNTY BOARD OF SUPERVISORS  
March 18, 2003 Regular Meeting 9:00 am  
Board of Supervisors' Meeting Room

At a meeting of the Board of Supervisors of Clarke County, Virginia, held in the Board of Supervisors' Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia on Tuesday, March 18, 2003.

**Present**

Chairman John Staelin, Supervisor Byrd, Supervisor Dunning and Supervisor Hobert.

**Also Present**

Randy Kiser, Bob Childress, Ed Breslauer, David Ash, Tom Judge, Charles Johnston, Vicki Callen, Jim Wink, Val Van Meter, Jerry Herrmann and other citizens and members of the press.

**Call To Order**

Chairman Staelin called the meeting to order at 9:05 am in the Board of Supervisors' Meeting Room of the Circuit Courthouse.

**Adoption of Agenda:**

Add to Consent Agenda: Special Entertainment Permit for Tunes & Tastes Festival  
Add to Miscellaneous: Discharge of Firearms – Direction to Robert Mitchell  
Add to Miscellaneous: Future Hiring Freeze – Discussion  
Add Closed Session: Blasting Ordinance - Discussion on proposal  
Add Closed Session: Real Estate

**Supervisor Dunning moved to adopt the agenda as amended. The motion carried by the following vote:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

**Approval of Meeting Minutes:**

February 18, 2003 Regular Meeting

**Supervisor Hobert moved to accept the meeting minutes as written. The motion carried by the following vote:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

#### February 21, 2003 Continued Meeting

**Supervisor Hobert moved to accept the meeting minutes as written. The motion carried by the following vote:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

#### February 25, 2003 Continued Meeting

Supervisor Byrd noted a correction on Page 672 Book 17 in the meeting minutes for February 25, 2003. To the motion made by Vice Chairman Shenk for a continuation of the Board's discussion until Thursday, February 27, 2003, at 4:30 pm in the Board of Supervisors Meeting Room, the vote should read Supervisor Byrd – Absent and Supervisor Dunning – Aye.

**Supervisor Hobert moved to accept the meeting minutes as amended. The motion carried by the following vote:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Abstained
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

#### February 27, 2003 Continued Meeting

**Supervisor Hobert moved to accept the meeting minutes as written. The motion carried by the following vote:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Abstained
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

#### **Consent Agenda**

##### Authorization of Department of Justice Equipment Grant

David Ash, County Administrator, provided a brief overview of the grant authorization request. For additional detail, see the Ratification of Committee Action - Finance Section of this document.

##### Special Entertainment Permit – Tunes and Tastes Festival

Mr. Ash stated that the Free Medical Clinic had applied for a Special Entertainment Permit for their second annual International Tunes and Tastes Festival. John Burns, Festival Chairman, provided copies of the completed application packets to all members of the Board, which were included in the packets when distributed. The application was reviewed by the County Administrator's Office; and the necessary documentation was submitted and all required County officials had been contacted.

**Supervisor Byrd moved to approve the Consent Agenda.**

The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

Citizen Comment Period

Dana Storm appeared before the Board to present a summary of the scholarship program sponsored by Piedmont Environmental Council [PEC]. PEC is offering scholarships for two persons to attend a program titled “Shaping The Future”, a geographically-focused course leading to a Certificate in Regional, Sub-regional and Community Land-use and Transportation Decision Making. This four-session course, offered by Lord Fairfax Community College at the Warrenton Campus, will be held on Wednesday’s April 16, April 30, May 14 and May 28 from 1 pm to 6 pm. These scholarships are being offered to both the Town of Berryville and Clarke County.

Chairman Staelin stated that he is familiar with this course and recommended it for its small group sessions and focus on the needs of the represented areas and ideas on implementation specific to the locality. Keith Dalton also felt this course would be good for the Town. Supervisors Byrd suggested that the County send some of its planners. Supervisor Dunning suggested that several persons from the Planning Commission could be sent.

Chairman Staelin requested that David Ash check the budget to see if the funds would be available to pay for additional attendees. Supervisor Dunning stated he would speak with Mr. Smalley, Planning Commission Chair. Due to class-size limitations, Ms. Storm did urge the Board to move quickly to ensure enrollment.

Virginia Department Of Transportation

- Randy Kiser

Randy Kiser provided his final report to the Board explaining that Bob Childress, who is familiar with the area, would be covering the vacant resident engineer position until a replacement was found.

Mr. Kiser stated during his update on Route 7 Business that he was still waiting for a reply from legal counsel. They continue to work with Audley Farms and have spoken with Keith Dalton, City Manager - Town of Berryville. Currently, there are three options for consideration one of which is to extend Jack Ender’s Boulevard. The Board and VDOT solicited feedback from Keith Dalton. Mr. Dalton stated he did not feel that the alternatives he had seen would work as well as the original plan. He feels that VDOT got the solution right the first time. Supervisor Dunning was also in support of this opinion.

On the recommendation of Mr. Kiser, Chairman Staelin requested that David Ash write a letter to Pierce Homer stating the County’s position on the options proposed for Route 7 Business.

Bob Childress stated the revenue sharing program deadline was March 28, 2003. He further stated that Keith Dalton, Town of Berryville, had participated in the program the previous year and as part of the program four sidewalks will be added this spring. VDOT is also responsible for maintaining the repair contract on South Buckmarsh and the repairs to the curb and guttering will begin later this year.

Bob Childress provided two handouts for better clarification and to aide the Board in their decision making on Project 0636-021-152 / Route 636 between Route 7 Business and Route 657. These improvements are specifically targeted for improvements to school access issues and safety. The current Six-year Secondary Road Plan has \$2MM set aside for this project.

The Board reviewed the various options and will determine where they want to start first and which of the options would be best. Supervisor Byrd requested a public meeting to discuss the proposals, as well as a mailing to affected residents.

Supervisor Byrd provided an update on the proposed Ford closings/abandonment. Supervisor Byrd reported that the affected residents on the Burnt Factory Road wished to keep the road open. However, the residents on 660 wish the Ford to be closed. Mr. Childress stated that the closings/abandonment went across county lines; therefore, the County of Clarke must provide written communication to John Riley, Frederick County Administrator, stating their willingness to abandon and their willingness have a public hearing. The Clarke County Board of Supervisors will need to pass two resolutions, which he will draft. Further, notices will have to be posted in the Clarke Times Courier and posted along the road they wish to close/abandon.

Supervisor Byrd apprised VDOT that some constituents had attended the February 21, 2003 meeting seeking to get a rustic-roads designation for Route 639 back on the docket. Mr. Childress indicated they could put this in for consideration.

Chairman Staelin expressed his appreciation to VDOT for their efforts during this winter's snowstorms, while not perfect, they moved fairly quickly. There were complaints about 606 being done slowly. Randy Kiser stated that the snow was so deep VDOT had to bring in larger trucks for the snow removal, which did cause delays.

The Board extended their congratulations to Mr. Kiser on his new appointment and best wishes for future success. Mr. Kiser thanked the Board for their cooperation over the years.

#### Public Meeting – Proposed Purchase of the Allen Properties

Chairman Staelin started the public meeting at 10:05 am. David Ash distributed to the Board of Supervisors 1) County Office Space Needs, 2) Comparison of Alternatives, and 3) Considerations for review.

Mr. Ash provided a brief history of the Space Needs Study Project.

The three alternatives for considerations were:

- 1) Purchase of Allen Property, or
- 2) Build a new structure for the County behind the Courthouse, or
- 3) Enter a joint building project with the Town of Berryville behind the Barns.

Although the County has already paid for the property, Supervisor Dunning requested that acquisition costs be included under No. 2. Chairman Staelin stated it was not additional costs. For Alternative No. 3, Mr. Ash explained that the acquisition costs would be paid to the Town of Berryville to cover the County's "fair share". Supervisor Dunning opined that while the numbers were "soft" it did provide some direction. He also stated that decisions had not yet been made as to whether the Treasurer and the Commissioner of the Revenue would be staying at the Circuit Courthouse if the County did relocate.

At 10:41 am, Chairman Staelin opened the public meeting for public comment.

Keith Dalton, Town Manager – Town of Berryville, appeared before the Board to voice his concerns. He stated that the County has not been hasty and believes they are doing what they can to meet the needs of the County. He expressed his appreciation of the good efforts made to keep the offices in downtown Berryville. However, he has a different point of view regarding the purchase of the Allen Properties. His primary concern is the removal of one possibly two viable commercial businesses from the tax roles; and given the size of the Town, the impact could be considerable. He also expressed concern for parking space and that the spread of County offices throughout the Town might lead to inefficiencies and difficulties in coordinating activities. He further explained that ADA compliance applies to the employees, as well as the public; and the County should still make the second floor of the Circuit Courthouse accessible.

Mr. Dalton requested that the County meet with the Town prior to making their decision on the purchase of the Crow Street property believing that a coalition between the County and the Town would make life easier for the citizens, save money, and improve efficiency and cooperation. Mr. Dalton put forth one suggestion that the Town could construct a building, which the County could lease. The building could be designed to allow for the Library and parking expansion.

Susie Bailey, Downtown Berryville Inc., stated that she agreed with Mr. Dalton and was concerned about the loss of commercial property and parking areas.

There being no other persons present wishing to address this matter Chairman Staelin closed the public meeting at 10:56 am.

Chairman Staelin thanked the speakers for their comments and stated that they would be taken under advisement. He opined that the Board needed to determine which offices would go into the Safeway building. He put forth the need to discuss the long-term plan for the approximately six-acre Primary School property. Keith Dalton expressed his agreement and stated this was an important discussion and plans were needed for that portion of the Town.

No action was taken on this matter.

Public Hearing – Rezoning [RZ-03-01]  
- Charles Johnston, Planning Administrator

At 11:06 am, Chairman Staelin started the public hearing. Charles Johnston, Planning Administrator, provided a brief overview including color-coded maps explaining that the light industrial zoning, put in place some thirty years ago, no longer reflects current ideas for the area. Supervisors Byrd and Dunning both queried Mr. Johnston as to the support of the affected residents. Mr. Johnston stated that letters had been sent to all affected property owners and it was widely felt that the rezoning request reflected the existing use.

At 11:14 am, Chairman Staelin opened the hearing for public comment.

John Bieschke, White Post resident, appeared before the Board in support of the proposed rezoning. As for the light industrial zoning change, there has been no activity since some interest was displayed some years ago. The area currently has mostly residential traffic with only milk trucks, which are accepted as part of the agricultural nature of the area.

There being no other citizens present to address the matter Chairman Staelin closed the public hearing at 11:16 am.

Supervisor Dunning moved to amend the County Zoning Map so as to change the zoning designation on the following properties:

Tax Map #	Owner Name & Prop. Address	Acres	Current Zoning	Current Use	Proposed Zoning
28-((A))-27	William Thompson 571 Berrys Ferry Road	12.53	Light Industrial	Agriculture	Agricultural-Open Space-Conservation
28-((A))-27A	Kenneth Conn Berrys Ferry Road	2.70	Light Industrial	Landing strip	Agricultural-Open Space-Conservation
28-((A))-27A	Kenneth Conn Berrys Ferry Road	3.50	Light Industrial	Landing strip Hangars	Neighborhood Commercial
28-((A))-27C	Norfolk Southern 713 Berrys Ferry Road	1.96	Light Industrial	Store/ Warehouse	Neighborhood Commercial
28-((A))-27C	Norfolk Southern 692 Berrys Ferry Road	0.17	Light Industrial	Old train station	Neighborhood Commercial
28A-((A))-4B	Lester Whitacre 650 Berrys Ferry Road	.59	Light Industrial	Storage	Neighborhood Commercial
28A-((A))-5	Richard Hunt 586 Berrys Ferry Road	0.80	Light Industrial	Residential	Rural Residential
28A-((A))-5	Richard Hunt 586 Berrys Ferry Road	0.43	Light Industrial	Greenhouse	Neighborhood Commercial
28A-((A))-6	White Post Supply Berrys Ferry Road	2.25	Light Industrial	Vacant	Rural Residential
28A-((A))-7	White Post Supply Berrys Ferry Road	1.54	Light Industrial	Vacant	Rural Residential

Tax Map #	Owner Name & Prop. Address	Acres	Current Zoning	Current Use	Proposed Zoning
28A-((A))-34	Elizabeth Stuart White Post Road	.06	Rural Residential	Vacant Store	Neighborhood Commercial
28A-((A))-36	Elizabeth Stuart 221 Berrys Ferry Road	.07	Rural Residential	Vacant Store	Neighborhood Commercial
28A-((A))-61	John Bieschke 214 White Post Road	.12	Rural Residential	Vacant Store	Neighborhood Commercial
28A-((2))-3	Margaret Cuthbert 127 Berrys Ferry Road	1.95	Neighborhood Commercial	Residential	Rural Residential
28A-((2))-3A	TRS of Diocese of VA 192 White Post Road	.46	Neighborhood Commercial	Cemetery	Rural Residential
28A-((A))-56	White Post Supply 400 White Post Road	2.45	Rural Residential	Antique auto restoration	Neighborhood Commercial

all located generally on White Post and Berrys Ferry Roads in the community of White Post, Greenway Magisterial District. (RZ-03-01)

The motion carried as follows:

- Chairman Staelin
- Vice Chairman Shenk
- Supervisor Byrd
- Supervisor Dunning
- Supervisor Hobert
- Aye
- Absent
- Aye
- Aye
- Aye

Ratification Of Committee Action

Board of Supervisors Work Session

The regular Board of Supervisors Work Session was not held for the month of March 2003.

Personnel

Appointment to Authorities, Boards and Commissions:

Committee/Board	Appointee	Expiration Date
Parks & Recreation Advisory Board	David Sheetz	12/31/04
Mr. Sheetz is a new appointee to this board completing the un-expired term of Charles McIntosh.		
Clarke County Library Advisory Council	Blakely R. Marcus	4/15/07
Mr. Marcus is re-appointed to this council, which has a four-year term. His previous term ran from 3/21/2000 through 4/15/2003.		
Clarke County Planning Commission	Robert Wade	4/30/2007
Mr. Wade is re-appointed to this commission, which has a four-year term. His previous term ran from 4/20/99 through 4/30/03.		
Clarke County Planning Commission	Robert Smalley	4/30/2007
Mr. Smalley is re-appointed to this commission, which has a four-year term. His previous term ran from 11/21/2000 through 4/30/2003.		

Supervisor Dunning moved to accept in whole all the appointments as presented.

The motion carried as follows:

- Chairman Staelin
- Vice Chairman Shenk
- Supervisor Byrd
- Supervisor Dunning
- Supervisor Hobert
- Aye
- Absent
- Aye
- Aye
- Aye

## Finance

- 1) Grant program application. This item was approved under the Consent Agenda. The Finance Committee recommended the designation of the County Administrator as Agent for the County and authorization of the purchase of equipment from Fiscal Year 1999 funds in the amount of \$3,777.
- 2) The Finance Committee recommended that the Humane Foundation receive a refund of \$3,900 for payments to the County for zoning and site plan review fees.

**Supervisor Dunning moved to accept in whole all the recommendations above and to adopted the following resolutions:**

**Be it resolved that:**

**The FY 03 General Government Capital Projects fund is amended to increase appropriations \$40,646, for expenses relating to the General District Courthouse renovations, and to acknowledge receipt of \$24,115 from the Commonwealth of Virginia, to partially offset such expenses.**

**That \$98,643 from existing appropriations in the general Government Capital Projects Fund be forwarded to the Industrial Development Authority with the understanding that revenue in the form of a development fee in the same amount will be paid to the County and appropriations restored.**

**That \$57,257 from existing appropriations in the General Government Capital Projects Fund be forwarded to the Industrial Development Authority with the understanding that revenue from the sale of tax credits in the same amount will be paid to the County of Clarke and appropriations restored.**

**The motion carried as follows:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

## Project Update

- David L. Ash, County Administrator

## Millwood Sewer:

Final bids have been received on the laterals. The pictures have been taken and signs are up.

## Courthouse Renovations:

The resolution reviewed and approved at this meeting that will allow the check to be written. Weather has caused delays.

## Coiner House:

Since the Project Update Report was written, Charles Johnston has received the requested information from SPN. There were some changes mid-stream and the financial numbers were not given to Mr. Ash, which is what he needed.

## Soccer Field:

No Change

Gypsy Moth Program:

Progressing quickly with many changes to report. The agreement has been received. The public notice is out, the meeting is scheduled for March 19, 2003, and the letters are out to affected property owners.

Animal Shelter:

Supervisor Byrd received a \$50,000 challenge grant. There was a meeting with Shockey. Bobbie Levi is in Richmond today to look at the animal shelter there to gather ideas.

Groundwater Study:

Mr. Ash provided the website address for anyone interested in viewing the well at Blandy Farm.

School Capacity:

At the time of the report, a meeting date had not been set.

Space Study:

No change.

Communications Tower:

Problems continue to baffle. There was an improvement, but the reception in certain areas of the County has degraded.

Business Park Road Water and Sewer Extension:

This project is back on target barring any possible delays due to weather.

**Shrink/Swell Ordinance Report**

- Alison Teetor, Natural Resource Planner

David Ash reviewed the Shrink/Swell Ordinance Report prepared by Alison Teetor. The report states that approximately half of the persons applying for a permit ask for the tests. Thus far, there have been few complaints; and they see no need to change the ordinance. Supervisor Hobert expressed his displeasure that the Board of Supervisors had requested that a database be developed and results and issues tracked. Carey Purvis, Code Official, has not yet developed this database and the information given is not based on documented fact. Chairman Staelin requested Mr. Ash to follow up with Carey Purvis on the database.

**Bills And Claims**

- A.R. Dunning, Jr.

Supervisor Dunning requested clarification from Tom Judge on two expenditures. Mr. Judge explained that one was an annual payment for a maintenance contract and the other a purchase for a Parks and Recreation program.

**Supervisor Dunning moved to accept the Bills and Claims as presented for the month. Approval of the motion was by the following vote:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye



Report – Economic Development

- John W. Sours, Jr., Director Economic Development

John Sours appeared before the Board to summarize the monthly report of the Economic Development Office. Mr. Sours stated that the Residents Guide was ready for the press. The Treasurer requested 7,500 to be mailed with the tax bills and an additional 2,500 have been ordered for a total of 10,000 with an approximate cost of \$1,000 to print.

Miscellaneous Items

Discharging Firearms in Densely-populated areas

Supervisor Dunning provided the background for this proposed ordinance. He received five to six complaints from County residents living in an established subdivision and without a homeowner's association. Apparently, a neighbor has set up a shooting range on a five-acre lot. The neighbors expressed concerns for safety and requested to know if a County ordinance would provide protection.

Supervisor Hobert suggested that the best option might be the creation of a Homeowners Association.

Chairman Staelin stated that if a Homeowners Association is not possible the County might define what constitutes a subdivision and let the homeowners vote to be covered by an ordinance. Mr. Staelin instructed David Ash to contact Bob Mitchell and provide the information gleaned from today's discussion to ensure the proper guidance is given in the development of the ordinance.

Hiring Freeze

Supervisor Dunning opined that the Board of Supervisors should put into place a hiring freeze for new County positions for the next year or two. If a department head needed to add a new position, it would require a public hearing and Board approval. This procedure would not apply for active positions that were vacated.

Chairman Staelin stated the County should be concerned with productivity. Chairman Staelin continued discussion on this topic to the next Board of Supervisors meeting and instructed Mr. Ash to draft a proposed motion.

Summary Of Required Action

1.

Check the budget to see if the funds would be available to pay for additional attendees for Shaping the Future certificate program.

David Ash

2.

Coordinate attendees with Mr. Smalley, Planning Commission Chair, for the Shaping the Future certificate program.

Pete Dunning

3.

Write letter to Piece Homer – VDOT.

David Ash

4.

Send mailing to affected persons for Project 0636-021-152 Route 636 Between R<sup>te</sup> 7 Business and Route 657 advising of project under consideration.

David Ash

5.

Work with Bob Childress and John Riley on notices, resolutions for Ford closings/abandonment.

David Ash

6.

Notify VDOT interest in rustic roads.

David Ash



7. Set a meeting date and time between the Town of Berryville and Clarke County to discuss space options. David Ash
8. Send out letters of appointment. David Ash
9. Give additional instructions to Bob Mitchell on **discharging firearms** issues and creation of subdivisions. David Ash
10. Add discussion of hiring freeze to the April 15, 2003 BOS Agenda and draft the motion. David Ash



Closed Session:



**Supervisor Dunning moved to convene into **Closed** session pursuant to Section §2.2.3711-A6 of the Code of Virginia, as amended, to discuss the investment of public funds where competition or bargaining is involved. §2.2.3711-A3, acquisition or sale of property**

**The motion was approved as follows:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

**The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, Supervisor Byrd moved to reconvene in open session. The motion carried as follows:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

**Supervisor Dunning moved to execute the following Certification of Closed Session:**

#### CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

**The motion was approved by the following roll-call vote:**

Chairman Staelin	-	Aye
Vice Chairman Shenk	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Hobert	-	Aye

Next Meeting:

The next meeting of the Board of Supervisors is set for April 1, 2003 at 7:30 pm in the Social Hall of John Enders Fire and Rescue, 9 South Buckmarsh Street, Berryville, VA 22611.

Adjournment:

There being no further business to be brought before the Board the Chairman adjourned the meeting at 1:13 pm.

ATTEST:

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John Staelin, Chairman

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David L. Ash, County Administrator